

## REMARKS

### Status of Claims

Claims 1-11, 17, 23 and 27-34 have been canceled without prejudice or disclaimer. Claims 12, 19, 24, 35, and 36 have been amended. No new matter has been added. Claims 12-16, 18-22, 24-26 and 35-44 are pending in the application.

### Claims 35-44 are Allowable

The Office has rejected claims 35-44, at paragraph 3 of the Office Action, under 35 U.S.C. §112 first paragraph, as failing to comply with the enablement requirement. Applicants respectfully traverse the rejections.

Support for the features of claims 35-44 may be found in at least paragraphs 0034 and 0042, and FIG. 5 of the application. Applicants respectfully request that the Office withdraw the §112 rejections of claims 35-44.

“A patent need not teach, and preferably omits, what is well known in the art.” *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (Fed. Cir. 1986) (emphasis added). “It is well settled that ‘omission of minor details does not cause a specification to fail to meet the enablement requirement.’” *Adang v. Fischhoff*, 286 F.3d 1346, 62 USPQ2d 1504 (Fed. Cir. 2002). “Enablement is determined from the viewpoint of persons of skill in the field of the invention at the time the patent application was filed.” *Ajinomoto Co., Inc. v. Archer-Daniels-Midland Co.*, 228 F.3d 1338, 56 USPQ2d 1332 (Fed. Cir. 2000). The scope of enablement is “that which is disclosed in the specification plus the scope of what would be known to one of ordinary skill in the art without undue experimentation.” *National Recovery Technologies, Inc. v. Magnetic Separation Systems, Inc.*, 166 F.3d 1190, 49 USPQ2d 1671 (Fed. Cir. 1999). Memory and processors are disclosed in the specification at paragraph [0042]. One of ordinary skill in that art would know, without undue experimentation, that a processor executes instructions from a memory since it is well known in the art that processors operate in this fashion (for example, John von Neumann outlined an architecture for a stored-program computer in 1945 in a document now referred to as “First Draft of a Report on the EDVAC”. See e.g.,

website: <http://www.computerhistory.org/timeline/?year=1945>. Accordingly, claims 35-44 are enabled by the application as originally filed.

**Claims 12, 13, 18-20, 35 and 42 are Allowable**

The Office has rejected claims 12, 13, 17-20, 35 and 42, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 7,113,500 (“Bollinger”) in view of U.S. Patent No. 6,934,258 (“Smith”). Claim 17 has been canceled without prejudice or disclaimer, rendering the rejection of claim 17 moot. Applicants respectfully traverse the remaining rejections.

The cited portions of Bollinger and Smith do not disclose or suggest the specific combination of claim 12. For example, the cited portions of Bollinger and Smith fail to disclose or suggest connecting a call to a telephone that is physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a voice and data network (VDN) call, as in claim 12.

The Office Action admits that the combination of Bollinger and Smith does not disclose determining whether a calling party is authorized to make a VDN call prior to transferring a converted call. *Office Action*, p. 6. Since Bollinger and Smith do not disclose determining whether a calling party is authorized to make a VDN call, the cited portions of Bollinger and Smith also do not teach or suggest converting the call at the TCG into a format compatible with the VDN and connecting the converted call to a destination device via the VDN when the call is to be redirected as a VDN call. Similarly, since Bollinger and Smith do not disclose determining whether a calling party is authorized to make a VDN call, the cited portions of Bollinger and Smith also do not teach or suggest connecting a call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12.

The Office Action asserts that U.S. Pat. No. 6,597,686 (“Smyk”), at FIG. 3-4 and col. 5, lines 15-43, discloses an apparatus and method for Internet telephony routing, wherein “authorization of the calling’s party to access a telephone service network is verify via capturing the calling party’s identification....” *Office Action*, p. 6 (discussing claims 23-26 and 40). The cited portions of Smyk disclose that when a caller uses a telephone that has not been registered with an Internet telephony routing service, a service control point may cause an intelligent

peripheral (IP) to collect additional information. *Smyk*, col. 5, lines 15-19. A call routing decision is made based on the collected information. *Id.* The cited portions of *Smyk* do not disclose or suggest connecting the call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. Hence, claim 12 is allowable.

Claims 13 and 18-20 depend from claim 12, which Applicants have shown to be allowable. Therefore, claims 13 and 18-20 are allowable, at least by virtue of their dependence from claim 12.

The cited portions of Bollinger and Smith do not disclose or suggest the specific combination of claim 35. For example, the cited portions of Bollinger and Smith fail to disclose or suggest a device with memory including instructions executable by a processor to connect a call to a telephone physically connected to the device when an incoming call is not authorized to be sent to a remote destination device, as in claim 35.

In the discussion related to claims 23-26 and 40, the Office Action admits that the combination of Bollinger and Smith does not disclose determining whether a calling party is authorized to make a VDN call prior to transferring a converted call. *Office Action*, p. 6. Since Bollinger and Smith do not disclose determining whether a calling party is authorized to make a VDN call, the cited portions of Bollinger and Smith also do not teach or suggest a device with memory including instructions executable by the processor to connect a call to a telephone physically connected to the device when an incoming call is not authorized to be sent to a remote destination device, as in claim 35.

The Office Action asserts that *Smyk*, at FIG. 3-4 and col. 5, lines 15-43, discloses an apparatus and method for Internet telephony routing, wherein “authorization of the calling’s party to access a telephone service network is verify via capturing the calling party’s identification....” *Office Action*, p. 6. The cited portions of *Smyk* disclose that when a caller uses a telephone that has not been registered with an Internet telephony routing service, a service control point may cause an intelligent peripheral (IP) to collect additional information. *Smyk*, col. 5, lines 15-19. A call routing decision is made based on the collected information. *Id.* The cited portions of *Smyk* do not disclose or suggest a device with memory including instructions

executable by the processor to connect a call to a telephone physically connected to the device when an incoming call is not authorized to be sent to a remote destination device, as in claim 35. Hence, claim 35 is allowable.

Claim 42 depends from claim 35, which Applicants have shown to be allowable. Therefore, claim 42 is allowable, at least by virtue of its dependence from claim 35.

#### **Claims 14-16 are Allowable**

The Office has rejected claims 14-16, under 35 U.S.C. §103(a), as being unpatentable over Bollinger in view of Smith and further in view of U.S. Patent No. 6,351,464 (“Galvin”). Applicants respectfully traverse the rejections.

As explained above, the cited portions of Bollinger and Smith fail to disclose or suggest at least one element of claim 12, from which claims 14-16 depend. For example, the cited portions of Bollinger and Smith fail to disclose connecting a call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. The cited portions of Galvin also fail to disclose or suggest the elements of claim 12 not disclosed or suggested by the cited portions of Bollinger and Smith. For example, the cited portions of Galvin fail to disclose or suggest connecting a call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. Instead, the cited portions of Galvin describe an automatic call processing system (ACP) that calls each of the numbers of a calling profile for a called party until the party is reached. *See Galvin, Abstract.* Therefore, claims 14-16 are allowable at least by virtue of their dependence from claim 12.

#### **Claims 21-22 are Allowable**

The Office has rejected claims 21-22, under 35 U.S.C. §103(a), as being unpatentable over Bollinger in view of Smith and further in view of U.S. Patent No. 6,700,956 (“Chang”). Applicants respectfully traverse the rejections.

As explained above, the cited portions of Bollinger and Smith fail to disclose or suggest at least one element of claim 12, from which claims 21-22 depend. The cited portions of Chang fail to disclose or suggest the elements of claim 12 not disclosed or suggested by the cited

portions of Bollinger and Smith. For example, the cited portions of Chang fail to disclose or suggest connecting a call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. Instead, the cited portions of Chang describe selectively providing telephone service that is either PSTN-based or Internet-based using a standard analog telephone circuit. *See Chang, Abstract.* The apparatus of Chang permits an analog telephone to be toggled between an Internet-based mode and a PSTN-mode by inputting a predetermined sequence of DTMF digits. *See Chang, Abstract.* However, Chang does not disclose connecting a call to a telephone physically connected to a telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. Rather, the telephone of Chang can be switched between PSTN-based service and Internet-based service for outgoing calls. See, Chang, FIG. 5. Chang does not disclose receiving a call and determining whether the call is to be redirected, as in claim 12. Therefore, claims 21-22 are allowable at least by virtue of their dependence from claim 12.

#### **Claims 24-26 and 40 are Allowable**

The Office has rejected claims 23-26 and 40, under 35 U.S.C. §103(a), as being unpatentable over Bollinger in view of Smith and further in view of U.S. Patent No. 6,507,686 (“Smyk”). Claim 23 has been canceled without prejudice or disclaimer rendering the rejection of claim 23 moot. Applicants respectfully traverse the remaining rejections.

As explained above, the cited portions of Bollinger, Smith and Smyk fail to disclose or suggest at least one element of claim 12, from which claims 24-26 depend. The Office Action admits that Bollinger and Smith do not disclose determining whether a calling party is authorized to make a VDN call prior to transferring a converted call. *Office Action*, p. 6. The Office Action asserts that Smyk, at FIG. 3-4 and col. 5, lines 15-43, discloses an apparatus and method for Internet telephony routing, wherein “authorization of the calling’s party to access a telephone service network is verify via capturing the calling party’s identification....” *Office Action*, p. 6. The cited portions of Smyk disclose that when a caller uses a telephone that has not been registered with an Internet telephony routing service, a service control point may cause an intelligent peripheral (IP) to collect additional information. *Smyk*, col. 5, lines 15-19. A call routing decision is made based on the collected information. *Id.* The cited portions of Smyk do not disclose or suggest connecting the call to a telephone physically connected to a

telecommunications gateway (TCG) when the call is not authorized to be redirected as a VDN call, as in claim 12. Hence, claim 12 is allowable, as are claims 24-26 which depend from claim 12.

Additionally, claims 25 and 26 include additionally elements that are not taught or suggested by the cited portions of Bollinger, Smith and Smyk. For example, the cited portions of Bollinger, Smith and Smyk fail to disclose or suggest determining a destination device before transferring the converted call to the destination device, where determining the destination device includes sending a dialing signal to a calling device and receiving a calling code associated with the destination device from the calling device, as in claim 25. Further, the cited portions of Bollinger, Smith and Smyk fail to disclose or suggest a call including a calling code for the destination device and wherein transferring the call to the destination device comprises using the calling code to address data packets to the destination device, as in claim 26. The Office Action does not point to any portion of Bollinger, Smith or Smyk as disclosing these elements of claim 25 and 26; hence, no *prima facie* case of obviousness has been established with respect to claims 25 and 26. Thus, claims 25 and 26 are allowable for at least this additional reason.

Further, as explained above, the cited portions of Bollinger, Smith and Smyk fail to disclose or suggest at least one element of claim 35, from which claim 40 depends. The Office Action admits that Bollinger and Smith do not disclose determining whether a calling party is authorized to make a VDN call prior to transferring a converted call. *Office Action*, p. 6. The Office Action asserts that Smyk, at FIG. 3-4 and col. 5, lines 15-43, discloses an apparatus and method for Internet telephony routing, wherein “authorization of the calling’s party to access a telephone service network is verify via capturing the calling party’s identification....” *Office Action*, p. 6. The cited portions of Smyk disclose that when a caller uses a telephone that has not been registered with an Internet telephony routing service, a service control point may cause an intelligent peripheral (IP) to collect additional information. *Smyk*, col. 5, lines 15-19. A call routing decision is made based on the collected information. *Id.* The cited portions of Smyk do not disclose or suggest a device with memory including instructions executable by the processor to connect a call to a telephone physically connected to the device when an incoming call is not

authorized to be sent to a remote destination device, as in claim 35. Hence, claim 40 is allowable at least by virtue of its dependence from claim 35.

**Claims 36-39, 41 and 43-44 are Allowable**

The Office Action fails to point to any reference as disclosing or suggesting the elements of claims 36-39, 41, 43 or 44. Therefore, no prima facie case has been established with respect to claims 36-39, 41, 43 and 44. Further, the cited portions of Bollinger, Smith, Galvin, Chang, and Smyk, individually or in combination, fail to disclose or suggest the elements of claims 36-39, 41, 43 or 44. Therefore, claims 36-39, 41, 43 and 44 are allowable.

**CONCLUSION**

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the cited references as applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

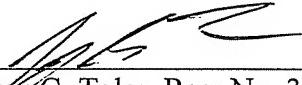
Any changes to the claims in this response, which have not been specifically noted to overcome a rejection based upon the cited art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

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Date

  
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